

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-7115**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

BRODERICK EDWARD GRAVES,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Chief District Judge. (CR-93-133; CA-04-397)

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Submitted: October 18, 2005

Decided: October 25, 2005

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Before WIDENER, MICHAEL, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Noell P. Tin, TIN FULTON GREENE & OWEN, PLLC, Charlotte, North Carolina, for Appellant. Gretchen C.F. Shappert, Interim United States Attorney, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Broderick Edward Graves seeks to appeal the district court's order denying as late his motion filed under 28 U.S.C. § 2255 (2000). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of his constitutional claims is debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Graves has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED